

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PATRICK KEITH STEARNS,

Plaintiff,

v.

STATE OF WASHINGTON, *et al.*,

Defendants.

No. 10-5187BHS/JRC

ORDER DENYING APPOINTMENT OF  
COUNSEL

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636 (b) (1) (A) and 636 (b) (1) (B) and Local Magistrate Judges' Rules MJR 1, MJR 3, and MJR 4. Before the Court is plaintiff's motion asking that counsel be appointed (Dkt. # 1).

There is no right to have counsel appointed in cases brought pursuant to 42 U.S.C. § 1983. Although the Court can request counsel to represent a party pursuant to 28 U.S.C. § 1915(e) (1), the Court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances

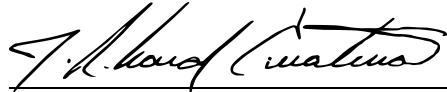
1 requires an evaluation of both the likelihood of success on the merits and the ability of the  
2 plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved.

3 Wilborn, 789 F.2d at 1331. Plaintiff has made no such showing here.

4 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* (Dkt # 1).  
5 This case is not in a posture where the Court can determine the likelihood of success on the  
6 merits. Plaintiff's Motion to Appoint Counsel (Dkt. # 1) is **DENIED**.

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8 The Clerk's Office is directed to send plaintiff a copy of this order and remove this  
9 motion from the calendar.

10 DATED this 24<sup>th</sup> day of March, 2010.

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13 J. Richard Creatura  
14 United States Magistrate Judge  
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